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September 7, 2023

BY ECF

The Honorable Frederic Block
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Bagley et al. v. N.Y. State Dep't of Health, et al., No. 15-cv-4845 (FB) (CLP)

Your Honor:

This Office represents defendants the New York State Department of Health and its commissioner, James McDonald (collectively "DOH"), in the above-captioned action. This letter is submitted on behalf of all parties pursuant to the Court's July 31, 2023, Order.

The parties have exchanged a proposed final version of the settlement agreement, which includes the amount of attorney's fees to be paid by DOH, and seven ancillary documents related to the settlement agreement. The seven ancillary documents have been finalized. The parties recently discovered that one ancillary document referenced in the settlement agreement had not been drafted. A draft of that ancillary document has been circulated and the parties believe that any issues with that document will be resolved by the end of the month. Upon resolution of the few remaining issues, DOH will submit the entire settlement package for mandatory final sign-off.

Additionally, Plaintiffs' counsel has submitted paperwork to the Surrogate's Court to create an estate for the deceased Named Plaintiff Michelle Bagley and they are awaiting a response from the Surrogate's Court. Plaintiffs' Counsel have asked the Surrogate's Court to expedite the matter.

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Given the parties' cooperative and very productive efforts, the parties request that the Court order the parties to report back to the Court on the status of the settlement by October 12, 2023.

Respectfully submitted,

/s/ John Gasior
Assistant Attorney General

cc: All counsel of record